

IN RE: PETITION FOR SPECIAL HEARING
E/S Hammonds Ferry Road, 50'
N of Second Avenue
(2711 Hammonds Ferry Road)
13th Election District
1st Councilmanic District
Jacob B. Miller, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-493-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve an existing retail auction sales and two-apartment dwelling as nonconforming uses, or, in the alternative, if said retail auction sales are determined not to be nonconforming, then to permit such retail auction sales to be located in the B.L. zone, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, Jacob and Rosemary Miller, appeared and testified. Also appearing and testifying on behalf of the Petitioners was Theresa McLoury, a local historian for the Lansdowne area. Numerous other individuals appeared in support of the Petition, all of whom were very reputable and notable members of the Lansdowne community. There were no Protestants.

Testimony indicated that the subject property, known as 2711 Hammonds Ferry Road, consists of 0.2676 acres zoned B.L. and is improved with a 2.5 story building which was constructed in the late 1800s. Jacob Miller testified the first floor of the subject building contained the first general store for the Lansdowne community and that the second floor was used as an apartment. Testimony indicated that in 1942, a second apartment was added to the second floor of the subject building and that the two apartments have been used continuously and without interruption

since that time. Mr. Miller testified that the first floor of the building has always been used for general retail sales since the late 1800s. Testimony indicated that a sewing shop and general store existed on the property from approximately 1925 to 1940 and that a variety of retail uses have continued to operate on the first floor of the subject building ever since. Testimony further indicated that for the past 14 years, the first floor has been used for auction sales, including antique and estate auction items. More specifically, Mr. Miller stated that when an individual's family member dies, the decedent's personal belongings are taken to his store and offered for sale. This type of use is nothing more than a multiplicity of sales uses listed in the B.L. zone.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-conforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the

current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption for general retail sales and as a two-apartment dwelling since at least 1942, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of August, 1991 that the Petition for Special Hearing to approve the existing retail auction sales and two-apartment dwelling as nonconforming uses, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

August 27, 1991

887-3353

Mr. & Mrs. Jacob Miller
135 Hazel Avenue
Baltimore, Maryland 21227

RE: PETITION FOR SPECIAL HEARING
E/S Hammonds Ferry Road, 50' N of Second Avenue
(2711 Hammonds Ferry Road)
13th Election District - 1st Councilmanic District
Jacob B. Miller, et ux - Petitioners
Case No. 91-493-SPH

Dear Mr. & Mrs. Miller:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File

ORDER RECEIVED FOR FILING
Date 8/27/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 8/27/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 8/27/91
By [Signature]

- 2 -

- 3 -

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

See Attached

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee(s):

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

City and State

Phone No.

Phone No.

ORDER RECEIVED FOR FILING

Date 8/27/91

By [Signature]



ESTIMATED LENGTH OF HEARING - 1/2HR. - 2HRS.
AVAILABLE FOR HEARING
ALL MON./TUES./WED. - NEXT TWO MONTHS
REVISED BY [Signature] DATE 4/4/91

To Approve an existing retail Auction sales and a 2 apartment dwelling as nonconforming uses or in the alternative if the retail Auction sales be determined not to be legally nonconforming then to permit said use to be located in the B.L. zone as shown on the submitted site plan.



SPELLMAN, LARSON
& ASSOCIATES, INC.

SUITE 100, JEFFERSON BUILDING
100 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
TEL. 823-1810
201 W. 25th N.W.

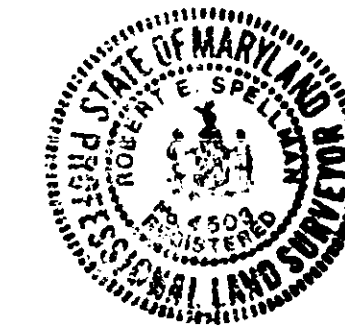
DESCRIPTION FOR A VARIANCE TO ZONING, 2711
HAMMONDS FERRY ROAD, 13TH DISTRICT, BALTIMORE COUNTY, MD

Page 1

Beginning for the same at a point on the southeast side of Hammonds Ferry Road, 50 feet wide, at the distance of 51.30 feet measured northeasterly along the southeast side of Hammonds Ferry Road from the north side of Second Avenue, 50 feet wide, and running thence and binding on the southeast side of Hammonds Ferry Road North 13 Degrees 31 Minutes East 51.20 feet thence leaving the southeast side of Hammonds Ferry Road and running South 89 Degrees 10 Minutes East 177.5 feet and South 0 Degrees 50 Minutes West 100 feet to the north side of Second Avenue herein referred to and running thence and binding on the north side of Second Avenue North 89 Degrees 10 Minutes West 50.00 feet thence leaving the north side of Second Avenue and running North 0 Degrees 50 Minutes East 50.00 feet and North 89 Degrees 10 Minutes West 138.7 feet to the place of beginning.

Containing 0.2676 acres of land, more or less.

6/5/91



CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 13th Date of Posting: 8/27/91
Posted for: [Signature]
Petitioner: [Signature]
Location of property: [Signature]
Location of sign: [Signature]
Remarks: [Signature]
Posted by: [Signature] Date of return: 8/27/91
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/26/91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on 7/25, 1991.

THE JEFFERSONIAN,

S. Zehe, Publisher

\$40.78

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, in accordance with the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed Special Hearing on the Petition for Special Hearing filed by the County Council District 13th at 111 W. Chesapeake Avenue, Towson, Maryland 21204 on August 27, 1991 at 9:00 a.m.
Second Hearing: To approve an existing retail auction sales and a two apartment dwelling as non-conforming uses or in the alternative, if the retail auction sales be determined not to be legally non-conforming, then to permit said use to be located in the B.L. zone as shown on the submitted site plan.
Zoning Commissioner of Baltimore County
APB:JTD:040 July 25

CERTIFICATE OF PUBLICATION

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed rezoning of the property located at 135 Hazel Avenue, Baltimore, Maryland 21227, from its present zoning of R-1 to R-2. The hearing will be held on Thursday, August 22, 1991, at 9:00 a.m. in the County Office Building, Room 113, 111 West Chesapeake Avenue, Towson, Maryland 21204. The hearing will be held in accordance with the provisions of the Zoning Act and Regulations of Baltimore County. The hearing will be held in accordance with the provisions of the Zoning Act and Regulations of Baltimore County. The hearing will be held in accordance with the provisions of the Zoning Act and Regulations of Baltimore County.

THIS IS TO CERTIFY, that the annexed advertisement was published in the ARBUTUS TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/25/91.

ARBUTUS TIMES

S. Zeke Orlean
Publisher

6078

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date

7/11/91

49109482

*PUBLIC HEARING FEES
ZONING VARIANCE (OTHER) 1 X \$175.00
TOTAL: \$175.00
LAST NAME OF OWNER: MILLER

04A04W0105M1CHRC \$175.00
Please Make Checks Payable To: Baltimore County 011147A06-11-91

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date

91-493

04A04W0105M1CHRC \$175.00
Please Make Checks Payable To: Baltimore County 011147A06-11-91

Cashier Validation

111 West Chesapeake Avenue
Towson, MD 21204

COPY

887-3353

DATE:

Jacob and Rosemary Miller
135 Hazel Avenue
Baltimore, Maryland 21227

RE:
Case Number: 91-493-SPH
E/S Hammonds Ferry Road, 50 (+/-) W of Second Avenue
2711 Hammonds Ferry Road
13th Election District - 1st Councilmanic
Petitioner(s): Jacob Bernard Miller, et ux
HEARING: THURSDAY, AUGUST 22, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$_____ is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



COPY

887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein as Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-493-SPH
E/S Hammonds Ferry Road, 50 (+/-) W of Second Avenue
2711 Hammonds Ferry Road
13th Election District - 1st Councilmanic
Petitioner(s): Jacob Bernard Miller, et ux
HEARING: THURSDAY, AUGUST 22, 1991 at 9:00 a.m.

Special Hearing to approve an existing retail auction sales and a two apartment dwelling as non-conforming uses or in the alternative, if the retail auction sales be determined not to be legally non-conforming, then to permit said use to be located as shown on the submitted site plan.

Zoning Commissioner of
Baltimore County

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

July 24, 1991

887-3353

Mr. & Mrs. Jacob B. Miller
135 Hazel Avenue
Baltimore, MD 21227

RE: Item No. 482, Case No. 91-493-SPH
Petitioner: Jacob B. Miller, et ux
Petition for Special Hearing

Dear Mr. & Mrs. Miller:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 26th day of June, 1991.

Arnold Jablon
DIRECTOR

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Jacob B. Miller, et ux
Petitioner's Attorney:

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: July 23, 1991

TO: Mr. J. Robert Haines
Zoning Commissioner
FROM: Raheem J. Famili
SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: June 25, 1991

This office has no comments for item number 482.

Raheem J. Famili
Traffic Engineer II

KJF/lvd

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

JUNE 21, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JACOB BERNARD MILLER
Location: #2711 HAMMONDS FERRY ROAD
Item No.: 482 Zoning Agenda: JUNE 25, 1991

Gentlemen:

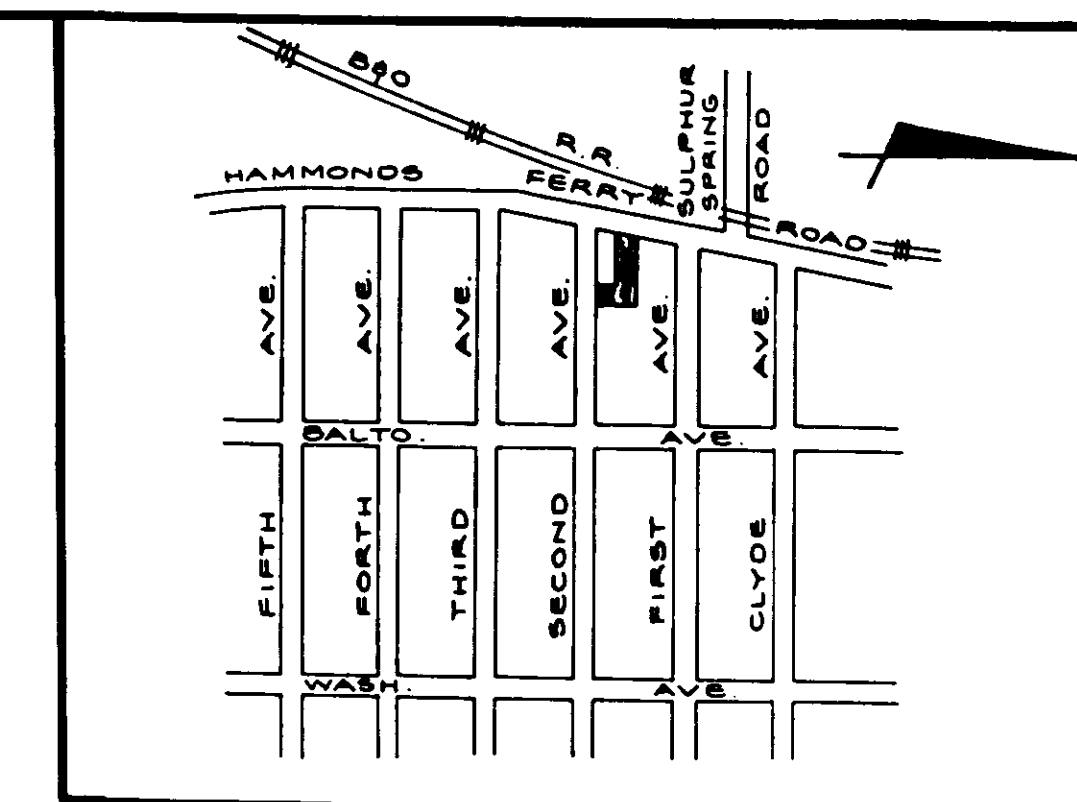
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

6/25/91



VICINITY MAP
SCALE: 1"=500'

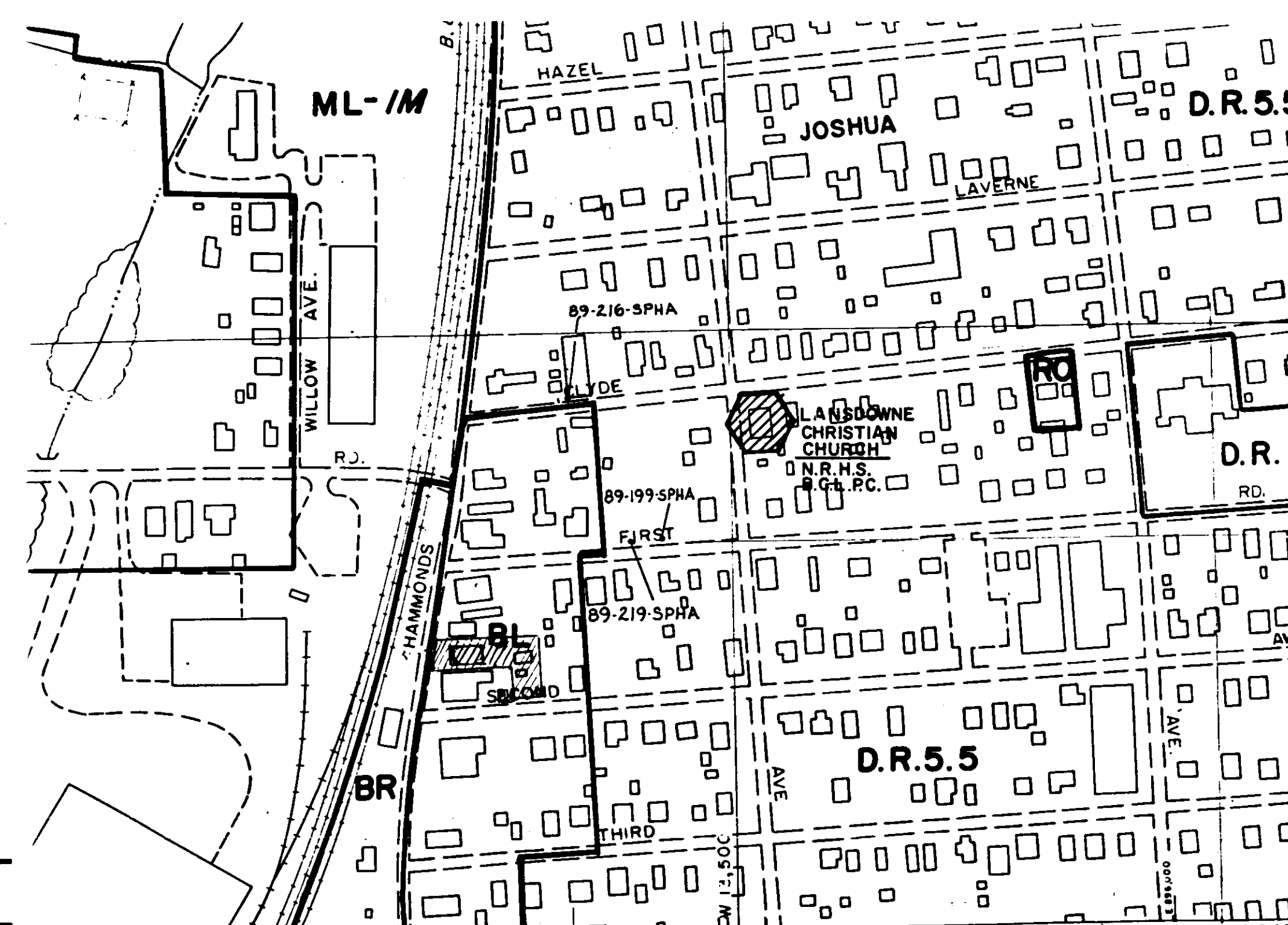
SITE DATA

BALTO. CO. COUNCIL DISTRICT 1
CENSUS TRACT: 4302
WATERSHED: 29
SUBSEWERHED: 73
SITE ACREAGE: 11655 SF / 0.2676 AC ±
EXISTING USE: RETAIL AUCTION CENTER
PROPOSED USE: RETAIL AUCTION CENTER
BUILDING AREA: 1783 SF

FLOOR AREA RATIO CALC: $1.1789 \div 1.1455 = 0.53 = 15\%$
 PARKING: AUCTION CENTER - REQUIRED 5 SP, 1000 SF / 1780 SF = 5 SPACES
 TWO APARTMENTS-REQUIRED 2 PER APRT = 4 SPACES
 TOTAL REQUIRED = 12 SPACES TOTAL PROVIDED = 16 SPACES (4 HIC SPACE)
 OWNERS - JACOB B & ROSEMARY MILLER 1315580260 5566/262
 TAX MAP 105, GRID 2
 PARCEL 356
 LANSDOWNE PLAT BOOK JWS 1/49
 BLOCK 2, LOTS 20, 21, 27 & 28

ADJACENT OWNERS:
LOT 18, 19 & 24 PAUL R. REINKE, JR 1318100620 7706/527
LOT 22 & 23 CATHERINE E. HARTING 1308001079 5197/574
ANITA L. KRUGER
LOT 30 JOHN F. & GLORIA RIES JR 1303472280 5593/349

91-493-SPA



JNTY

482 91-493-SPH

SCALE
1" = 200' ±

SW SC



482

		REVISIONS
NO.	DATE	DESCRIPTION

**SPELLMAN, LARSON
&
ASSOCIATES , INC.**
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 107, JEFFERSON BLDG., TOWSON, MD., 21204
PHONE: 823-3535

PREPARED FOR :

MILLERS AUCTION
2711 HAMMONDS FERRY ROAD
LANDSDOWNE, MD 21227
301-242-4197

PLAN TO ACCOMPANY SPECIAL HEARING
FOR NONCONFORMING USE

2711 HAMMONDS FERRY ROAD

13TH ELECTION DISTRICT BALTO. CO., M.D.

SCALE: 1" = 20'
DATE: MAY 28, 1991
DES. BY: N/A
DRN. BY: WDG
SHT. I OF ____

90055



CASE No. 91-493-SPH
ORDER

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of August, 1991 that the Petition for Special Hearing to approve the existing retail auction sales and two-apartment dwelling as nonconforming uses, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

TMK:bis

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

SITE DATA

BALTIMORE COUNTY COUNCIL DISTRICT 1
CENSUS TRACT: 4202
WATERSHED: 29
SubWatershed: 72
SITE ADDRESS: 1789 S. F. QUINTE Ave. 2
EXISTING USE: Retail Auction Center
PROPOSED USE: Retail Auction Center

BUILDING AREA: 1769 S.F.
FLOOR AREA RATIO (FAR): 0.79 / 1769 S.F. x 2.12 = 15%
ZONING:
Auction center requires 8 per 1022 S.F. / 1769 S.F. = 8 spaces
Two occupants require 10 per 221 = 4 spaces
Total Required = 12 spaces
Total Provided = 7 spaces and 100 spaces ADDITIONAL PARKING ACROSS
HARMONOUS FERRY ROAD
Lot 10, 19 & 24 - Robert Miller 1210500121 565,645
Parcel 150
Landmark Plant Lot 240, 37 &
Lot 10, Lot 22, 37, & 39
Parcel 151, Lot 240 - 1000 parking

ABSENT OWNER:
Lot 10, 19 & 24 - Paul R. Reame, Jr. 1316100121 728,000
Lot 22 & 37 - Catherine L. Reame 1316200121 615,000 and more L
Lot 39 - Jean F. and Arthur L. Kruger
Lot 24 - Jean F. and Arthur L. Kruger 1316300121 500,000

**SITE/LANDSCAPING PLAN
FOR PROPOSED STORAGE BUILDING AT**

2711 HAMMONDS FERRY ROAD

13TH ELECTION DISTRICT
SCALE: 1"= 20'

BALTIMORE COUNTY, MD.
MARCH 24, 1992

OWNER

MILLER'S AUCTION
2711 HAMMONDS FERRY ROAD
LANDSDOWNE, MD. 21227
(410) 242-4197

BALTIMORE CITY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS
 Bureau of Public Services

LANDSCAPE ARCHITECT'S AND OWNER'S
SIGNATURE AND CERTIFICATION FORM

I certify that I have reviewed this Final Landscape Plan; that I am aware of the regulations provided in the Baltimore County Landscape Manual; and I agree to comply with these regulations and all applicable policy, guidelines and ordinances. I agree to certify the implementation of the approved Final Landscape Plan upon completion of the landscape installation not later than one (1) year from the date of occupancy to the Department of Public Works, and to the Department of Services, County Office Building, Room 211, Towson, MD 21204.

Jake Miller 3-27-92
Owner's signature Date

JAKE MILLER (410) 242-4197
(Print) Owner's Name Tele. No.

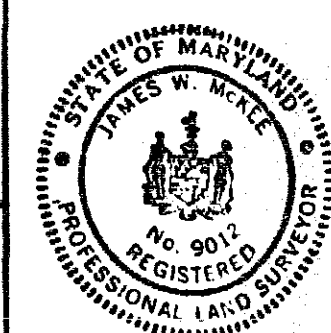
(Print) Mailing address - city - state - zip

McKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development
SHAWAN PLACE, 5 SHAWAN ROAD HUNT VALLEY, MARYLAND 21030
(301) 527-1555

Computed by: G.C.S
 Drawn by: J.G.K.
 Checked by: G.C.S.
 Job Number: _____

James W McKee Date _____
(Maryland Registered No 9012)



PLANT LIST

TREES

3-CARPINUS BETULUS-EUROPEAN HORNBEAM 2-1/2"

SHRUBS

6-FORSYTHIA INTERMEDIA 'SPECTABUS'- FORSYTHIA 3'
15-SPIREA NIPPONICA 'SNOWMOUND' SPIREA 2'-3'

B-123411
C-493-92
91-4935P